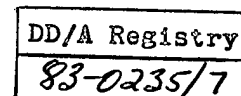


CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505



13 JUN 1983

The Honorable Robert M. Kimmitt
Executive Secretary
National Security Council
Room 372
Old Executive Office Building
Washington, D.C. 20506

DD/A REGISTRY
FILE: 70-4

Dear Mr. Kimmitt:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

2. Line 18 of paragraph 5 of the SCI nondisclosure draft and line 13 of paragraph 1 of the prepublication review draft should be amended to delete the words "the information with" and substitute the words "the information or materials with." This is a technical change necessary to ensure that there is no loophole in the prepublication requirement.

3. While we currently make every effort to return materials submitted for prepublication review to the individual within 30 working days, we are currently required in an SCI context only to respond to the individual within 30 working days, not necessarily to return the materials to him within that time. Moreover, in a collateral context we have absolutely no requirement to either respond or to return submitted materials within 30 working days. In collateral cases the 30-day period is a guide but is not controlling. Therefore, we are disturbed by a requirement contained in line 10 of paragraph 6 of the SCI nondisclosure draft and line 7 of paragraph 2 of the collateral prepublication review draft to "substantively respond" within 30 working days. However, we understand that this provision was only intended to apply generally within the Government, not specifically to the Agency; thus, it would not prevent the Agency from continuing its current practices.

4. Line 9 of paragraph 10 of the SCI nondisclosure draft and line 9 of paragraph 7 of the collateral nondisclosure draft should be amended by deleting the words "United States Government." This is a technical change necessary to conform the language of paragraphs 10 and 7 respectively with paragraph 3 of each agreement.

5. Lines 2 and 3 of paragraph 8 of the collateral nondisclosure draft should be amended to delete the words "Department or Agency that last granted me a security clearance" and lines 2 and 3 of paragraph 11 of the SCI nondisclosure draft should be amended to delete the words "Department or Agency that last granted me either a security clearance or a SCI access approval" and the words "United States Government" should be substituted in both places. This change is necessary because the paragraph language would otherwise authorize SCI officials to abrogate collateral requirements contained in the agreement and collateral officials to abrogate SCI requirements contained in the agreement. Moreover, as set forth in the collateral nondisclosure agreement, this language would authorize the last agency in the loop to abrogate contractual requirements which were established by, and apply to, previous agencies. We are sure that this result was never contemplated and it would be eliminated by the substitute language or by establishing a requirement that an individual sign a nondisclosure agreement at every agency where he works and is granted access to SCI or other classified information.

6. The prepublication review draft does not currently contain a definition of classified information; therefore, it is unclear on the face of the agreement the actual scope of its coverage. Moreover, the first sentence of paragraph 2 of the prepublication review draft is inconsistent with the first sentence of paragraph 6 of the SCI nondisclosure draft in that the former requires review to determine whether the materials set forth "any classified information," while the latter requires a review to determine whether the materials set forth "information that is subject to classification." A clarification of the appropriate standard to be used is needed.

7. The Agency's current SCI nondisclosure agreement contains the security briefing and debriefing acknowledgements on the reverse side. We would like these statements to be included on the new SCI nondisclosure agreement in order to facilitate input into the Community-wide Computer-Assisted Compartmentation Control System.

The Agency will not be able to use the standard nondisclosure or prepublication agreements unless changes as indicated above are made to the draft forms.

Sincerely,

Harry E. Fitzwater

Harry E. Fitzwater
Deputy Director
for
Administration

STAT OIS/RMD/RSB [] 0 June 1983)

STAT Distribution:

Original - Addressee

- 1 - [] OGC
- 1 - [] OS
- 1 - Chairman, SECOM
- 1 - DDA Subject
- 1 - DDA Chrono
- 1 - D/OIS Subject
- 1 - D/OIS Chrono
- 1 - RSB Subject
- 1 - RSB Chrono

83-2344

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505DD/A Registry
83-0235/7

13 JUN 1983

The Honorable Cora P. Beebe
Assistant Secretary (Administration)
Department of the Treasury
Room 3442
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Ms. Beebe:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

2. Line 18 of paragraph 5 of the SCI nondisclosure draft and line 13 of paragraph 1 of the prepublication review draft should be amended to delete the words "the information with" and substitute the words "the information or materials with." This is a technical change necessary to ensure that there is no loophole in the prepublication requirement.

83-2344

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

DD/A Registry

83-0235/7

13 JUN 1983

General Richard G. Stilwell, USA (Ret.)
Deputy Under Secretary of Defense
for Policy
Room 2E812
The Pentagon
Washington, D.C. 20301

Dear General Stilwell:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

2. Line 18 of paragraph 5 of the SCI nondisclosure draft and line 13 of paragraph 1 of the prepublication review draft should be amended to delete the words "the information with" and substitute the words "the information or materials with." This is a technical change necessary to ensure that there is no loophole in the prepublication requirement.

83-2344

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

DD/A Registry

83-023517

13 JUN 1983

Mr. Steven Garfinkel
Director, Information Security
Oversight Office
General Services Administration (Z)
Room 6046
18th & F Streets, N.W.
Washington, D.C. 20405

Dear Mr. Garfinkel:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

2. Line 18 of paragraph 5 of the SCI nondisclosure draft and line 13 of paragraph 1 of the prepublication review draft should be amended to delete the words "the information with" and substitute the words "the information or materials with." This is a technical change necessary to ensure that there is no loophole in the prepublication requirement.

83-234/4

DD/A Registry

83-0235/7

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

13 JUN 1983

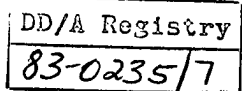
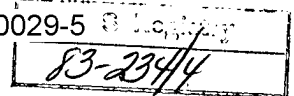
The Honorable John R. Burke
Deputy Assistant Secretary for
Classification/Declassification
Department of State
Room 2811
Washington, D.C. 20520

Dear Mr. Burke:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

13 JUN 1983

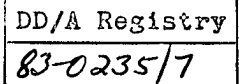
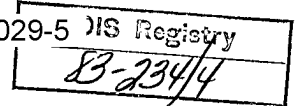
The Honorable Kevin D. Rooney
Assistant Attorney General for
Administration
Justice Management Division
Department of Justice
Room 1111
10th and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Rooney:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

13 JUN 1983

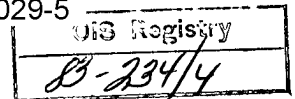
Mr. Robert T. Duff
Director, Office of Classification
Department of Energy
Room A23200
Washington, D.C. 20585

Dear Mr. Duff:

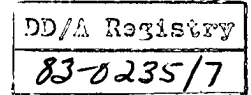
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1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505



13 JUN 1983

Mr. Kenneth E. deGraffenreid
Staff Member
National Security Council
Room 300
Old Executive Office Building
Washington, D.C. 20506

Dear Mr. deGraffenreid:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

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B-234/4

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

DD/A Registry

88-0235/7

13 JUN 1983

Ms. Brenda Reger
National Security Council
Room 375
Old Executive Office Building
Washington, D.C. 20506

Dear Ms. Reger:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

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OIS Registry

B-2344

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

DD/A Registry

83-0235/7

13 JUN 1983

~~Mr.~~ Richard Willard, Esq.
Deputy Assistant Attorney General
Civil Division
Department of Justice
Room 3143
10th and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Willard:

As requested by the Director, Information Security Oversight Office in his letters dated 26 May and 2 June 1983, our comments on the most recent drafts of the three forms designed to implement the nondisclosure provisions of National Security Decision Directive 84 are as follows:

1. In line 10 of paragraph 5 of the Sensitive Compartmented Information (SCI) nondisclosure draft, the words "other classified information" have been deleted and the words "other classified intelligence reports or estimates" have been substituted. We are concerned that this substitution would result in persons being able to publish purportedly classified information with impunity as long as the information was not purported to be intelligence reports or estimates. The language contained in line 13 of paragraph 5 of the SCI nondisclosure draft places a prepublication review requirement only on information to which a person has access during the course of their employment, contract, or other relationship with the United States Government. This language would mean that the Government would have to prove in each and every case an individual had access to the intelligence data, activities, sources, or methods, discussed in any particular publication. Of course, this would in many instances confirm the accuracy of the publication or confirm the fact that the individual had access to particular intelligence information. Despite our concern about this prepublication language, we understand that the SCI nondisclosure agreement sets forth only minimal standards and that the Agency can have tougher standards in its SCI nondisclosure agreements.

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DD/A Registry

82-0235/7

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Nondisclosure Provisions of National Security
Decision Directive 84

FROM:

Director of Information Services
1206 Ames Building

EXTENSION

NO.

OIS 83-234/4

DATE

10 JUN 1983

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

- | | | | | |
|-----|--------|-------------|----|---|
| 1. | EO/DDA | 10/6 | OK | <p>Harry:</p> <p>Attached for your signature is a letter to the National Security Council containing the Agency's comments on the draft nondisclosure agreements developed by the Information Security Oversight Office. These comments were provided by the Office of General Counsel and include input from the Office of Security.</p> |
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| 3. | ADDA | | | |
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| 5. | DDA | 13 JUN 1983 | J | |
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